

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

La Grande Post Office
La Grande, Washington

Docket No. A2011-98

ORDER AFFIRMING DETERMINATION

(Issued January 17, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly, the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On September 28, 2011, David and Judi Smith (Petitioners Smith) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the La Grande, Washington post office (La Grande post office).² An additional petition for review was received from Roger Bush (Petitioner Bush).³ The Final Determination to close the La Grande post office is affirmed.

II. PROCEDURAL HISTORY

On September 30, 2011, the Commission established Docket No. A2011-98 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

On October 13, 2011, the Postal Service filed the Administrative Record with the Commission.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

² Petition for Review received from David and Judi Smith regarding the La Grande, Washington post office 98348, September 28, 2011 (Smith Petition).

³ Petition for Review received from Roger Bush regarding the La Grande, Washington post office 98348, September 30, 2011 (Bush Petition).

⁴ Order No. 891, Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 30, 2011.

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, October 13, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the La Grande, WA Post Office and Extend Service by Rural Route Service (Final Determination).

⁶ United States Postal Service Comments Regarding Appeal, November 22, 2011 (Postal Service Comments).

Petitioners Smith filed a participant statement supporting their petition.⁷ On December 7, 2011, Petitioners Smith filed a reply brief.⁸ The Public Representative also filed a reply brief.⁹

III. BACKGROUND

The La Grande post office provides retail postal services and service to 17 post office box customers. Final Determination at 2. No delivery customers are served through this post office. *Id.* The La Grande post office, an EAS-51 level facility, provides retail service from 8:00 a.m. to 4:30 p.m., Monday through Friday, and 8:00 a.m. to 10:00 a.m. on Saturday.¹⁰ Lobby access hours are 24 hours daily. *Id.*

The postmaster of the La Grande post office will be offered a reassignment.¹¹ Retail transactions average four transactions daily (three minutes of retail workload). Final Determination at 2. Post office receipts for the last 3 years were \$2,014 in FY 2008; \$2,253 in FY 2009; and \$2,457 in FY 2010. *Id.* There are no permit or postage meter customers. *Id.* By closing this post office, the Postal Service anticipates savings of \$15,791 annually. *Id.* at 5.

⁷ Participant Statement Received from David & Judi Smith, November 2, 2011 (Participant Statement). Petitioners Smith also requested a waiver of the Commission's online filing requirements. Letter Received from David Smith Requesting Waiver from Filing Online, November 16, 2011. The request for a waiver is granted.

⁸ Petitioner Reply to the USPS Comments Filed November 22, 2011, December 7, 2011 (Petitioners' Reply Brief).

⁹ Reply Brief of the Public Representative, December 7, 2011 (PR Reply Brief).

¹⁰ The Final Determination states that the La Grande post office is open from "08:00 to 9:00-15:30 to 16:30 Monday–Friday[.]" *Id.* at 2.

¹¹ Postal Service Comments at 15. The Final Determination notes that the postmaster was reassigned on June 30, 2011. Final Determination at 2. The Postal Service states that that this notation was in error and that the postmaster will be offered a reassignment. Postal Service Comments at 2 n.4. The Postal Service contends that this error does not change the essential facts of the case or change the need for the Postal Service to change course in this discontinuance action. *Id.*

After the closure, retail services will be provided by the Eatonville post office located approximately 4 miles away.¹² Delivery service will be provided by rural carrier through the Eatonville post office. The Eatonville post office is an EAS-18 level facility, with retail hours of 9:00 a.m. to 5:00 p.m., Monday through Friday, and there are no hours of operation on Saturdays. *Id.* Seven post office boxes are available. *Id.* The Postal Service will continue to use the La Grande name in the new address, but the ZIP Code will change. *Id.* at 4.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the La Grande post office. Petitioners Smith argue that the factors used to close the La Grande post office were not supported by the record, the Postal Service did not adequately consider the effect of the closing on the La Grande community, and the Postal Service misrepresented the economic savings from closing the La Grande post office. Smith Petition at 1; Participant Statement at 5-8. They also raise several issues related to providing effective and regular service. Participant Statement at 5-7.

Petitioners Smith contend that the La Grande post office is not in need of modifications or renovations, stating that no one in the community was aware of any intended changes to the facility. Participant Statement at 4. They argue that the Administrative Record does not accurately reflect or identify the required modifications that are needed. *Id.* Further, they assert that the Final Determination incorrectly stated that the postmaster has been reassigned. *Id.* at 1, 7. They note that the postmaster has not been reassigned and has no knowledge of a reassignment. *Id.* Lastly, they argue that the lease of the La Grande post office does not expire until December 31, 2012, which means there is not an immediate need to close the La Grande post office. *Id.* at 4-5.

¹² *Id.* at 2. MapQuest estimates the driving distance between the La Grande and Eatonville post offices to be approximately 4.16 miles (6 minutes driving time).

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the La Grande post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services and the security of rural boxes; (2) the impact on the La Grande community; and (3) the economic savings expected to result from discontinuing the La Grande post office. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the La Grande post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the La Grande post office was based on several factors, including

- the upcoming vacancy of the postmaster position due to reassignment;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 5. The Postal Service contends that it will continue to provide regular and effective postal services to the La Grande community when the Final Determination is implemented. *Id.*

The Postal Service asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioners regarding the effect on postal services, effect on the La Grande community, economic savings, and effect on postal employees. *Id.* at 5-16. Also, the Postal Service contends that it has addressed issues regarding the expiration of the La Grande post office lease in approximately 1 year and the cost of upgrades or modifications to the facility. *Id.* at 12-13.

Public Representative. The Public Representative states that the Post Service followed applicable statutory obligations and procedures. PR Reply Brief at 6. However, the Public Representative argues that the decision to close the La Grande post office was arbitrary and is not supported by substantial evidence. *Id.* The Public Representative asserts that the cost savings and the effect on the Postal Service employees were not sufficiently considered. *Id.* at 8-9. Lastly, the Public Representative contends that the decision to close the La Grande post office was not properly supported in the record. *Id.* at 9-13.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons

served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The record indicates the Postal Service took the following steps in providing notice of its intent to close. The Postal Service distributed questionnaires to customers regarding the possible change in service at the La Grande post office. Final Determination at 2. A total of 20 questionnaires were distributed and 10 were returned. *Id.* On April 7, 2011, the Postal Service held a community meeting at the Eatonville Library in Eatonville, Washington to address customer concerns. *Id.* Three customers attended. *Id.*

The Postal Service posted the proposal to close the La Grande post office with an invitation for comments at the La Grande and Eatonville post offices from June 1, 2011 through August 1, 2011. Administrative Record, Item No. 36. The Final Determination was posted at the same two post offices from September 1, 2011 through October 3, 2011. *Id.*, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A). The Postal Service must also comply with the provisions of 39 U.S.C. § 101(b), which prohibits closing any small post office solely for operating at a deficit.

Effect on the community. La Grande, Washington is an unincorporated community located in Pierce County, Washington. Administrative Record, Item No. 16. The community does not have a local government. *Id.* Police protection is provided by the Pierce County Sheriff. Fire protection is provided by the County Fire District. The community is comprised of retirees and commuters. *Id.* Residents may travel to nearby

communities for other supplies and services. See *generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the La Grande community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the La Grande post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 4-5.

Petitioners raise the issues of the effect of the closing on the La Grande community. Petitioners Smith contend that the La Grande post office plays an important role in the community and provides a place for community gatherings and for public announcements to be displayed on the bulletin board. Participant Statement at 10-11. They argue that the record is unclear as to whether the residents of La Grande will maintain their community name and ZIP code. Petitioners' Reply Brief at 5. Petitioner Bush argues that the La Grande post office forms an integral part of the rural community. Bush Petition.

The Postal Service contends that it considered the effect on the closing on the community and explains that a community identity's derives from the interest and vitality of its residents and their use of its name. Postal Service Comments at 10. It states that the ZIP Code will change, but customers can continue to use the community name in the new address. Final Determination at 4, Concern No. 12. Further, the Postal Service asserts that the community will continue to receive regular and effective postal services and a rural carrier service is expected to handle any future growth in the community. Postal Service Comments at 11.

Petitioners Smith argue that the close of the La Grande post office adds a strain on senior citizens and those needing additional assistance because they are unable to travel the added distance to the Eatonville post office. Participant Statement at 5-6. The Postal Service asserts that the services provided at the La Grande post office will

be provided through a rural carrier. Postal Service Comments at 11. It states that the rural carrier is able to provide delivery and retail service to roadside mailboxes or cluster box units, eliminating the need to travel to the Eatonville post office. *Id.* Additionally, the Postal Service contends that in cases of hardship, it is able to make arrangements for effective postal service on a case by case basis. *Id.*

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Public Representative argues that the Postal Service did not adequately consider the effect on employees because it assumed that an OIC was operating the La Grande post office. PR Comments at 7. Although the Final Determination states that an OIC is operating the La Grande post office, it concludes that no other Postal Service employee will be adversely affected. Final Determination at 5. The Postal Service reaches the same conclusion when it clarifies in its comments that the postmaster will be offered a reassignment and no other Postal Service employee will be affected by the closing. Postal Service Comments at 15.

The Postal Service has considered the possible effects of the post office closing on the postmaster and has satisfied its obligation to consider the effect of the closing on employees at the La Grande post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to La Grande customers. Postal Service Comments at 5. It asserts that customers of the closed La Grande post office may obtain retail services at the Eatonville post office located 4 miles away. Final Determination at 2. Delivery service will be provided by rural carrier through the Eatonville post office. *Id.* The 17 post office box customers may obtain Post Office Box Service at the Eatonville post office, which has 7 boxes available. *Id.*

For customers choosing not to travel to the Eatonville post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 7. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Petitioners Smith claim that rural carriers only provide minimal service and do not secure against theft. Additionally, they argue that post office customers should not have to travel 4 miles to the Eatonville post office, which becomes difficult in inclement weather. Petitioner Bush expresses concern about customers having to travel further for postal services. Bush Petition.

The Postal Service asserts that it has considered the effect the closing will have on postal services provided to La Grande customers. Postal Service Comments at 5. It contends that customers of the closed La Grande post office may obtain retail services at the Eatonville post office and for customers choosing not to travel to Eatonville; the Postal Service explains that many postal transactions can be conducted through a carrier. *Id.* at 7. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.* To address several of the customers concerns about the potential for theft of mail, the Postal Service explained that it can provide rural route service to locked mail compartments. *Id.* at 8.

Petitioners Smith assert that 17 current post office box customers will be displaced, but only 7 boxes are available at the Eatonville post office. Smith Petition at 3. The Postal Service states that delivery service will be provided by rural carrier to cluster box units or rural boxes. Postal Service Comments at 8. As the Commission has stated, the Postal Service should ensure that an adequate number of post office boxes will be available at the Eatonville post office to meet demand.¹³

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$15,791. Final Determination at 5. It derives this figure by summing the following costs: postmaster salary and benefits (\$15,146) and annual lease costs (\$1,800), minus the cost of replacement service (\$1,155). *Id.*

¹³ See Docket No. A2011-75, Order No. 1114, Order Affirming Determination, January 9, 2012, at 9; Docket No. A2011-66, Order No. 1107, Order Affirming Determination, January 5, 2012, at 8.

Petitioners Smith argue that the Postal Service should not have considered the cost of repairing and upgrading the facility as one of the deciding factors for the closure of the La Grande post office. Participant Statement at 4. Further, they claim there have been no complaints about the condition of the building, making repairs unnecessary. *Id.* Additionally, they argue that the amount paid for the lease, \$1,800, is minimal and the expiration of the lease is not in the near future. *Id.* at 4-5. The Public Representative concludes that the Postal Service has not justified its claim of modifications to the facility. PR Reply Brief at 10. He contends that the record does not support the Postal Service's assertion that upgrades are needed to the facility and is compelled to agree with Petitioners Smith since the Postal Service failed to support its argument. *Id.*

The Postal Service contends that it is obligated to maintain all facilities in a safe manner and make reasonable repairs when the need arises. Postal Service Comments at 13. Furthermore, it asserts that repairs and upgrades are needed at the La Grande post office and those costs will exceed the cost of the building. *Id.* Additionally, the Postal Service argues that although the lease payment is relatively minor, eliminating the payment would represent a savings to the Postal Service. *Id.*

The Public Representative contends that much of the Postal Service's investigation and analysis relies on the error that the postmaster was already reassigned and skewed the projected economic savings from the closure. PR Reply Brief at 7. He states that the closure of the La Grande post office needs to be reconsidered. *Id.* Similarly, Petitioners Smith arguing that even though the postmaster will be reassigned, he will be required to perform thirty additional hours per week of work, resulting in an increase of salary. Petitioners' Reply Brief at 1.

The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. Because the La Grande postmaster will be reassigned, the postmaster position and the corresponding salary will be eliminated.

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

Section 101(b). Section 101(b) prohibits closing any small post office solely for operating at a deficit. Petitioners Smith and the Public Representative contend that the Postal Service is closing the La Grande post office solely for economic reasons. Participant Statement at 9; PR Reply Brief at 11.

The Commission is not prepared to conclude that the Postal Service's determination violates section 101(b). In addition to considering workload at the La Grande post office (revenues declining and averaging only four retail transactions per day), the Postal Service took into account other factors such as the upcoming postmaster vacancy, the minimal impact on the community, and expected financial savings. In addition, it considered the alternate delivery and retail options available to customers. See Postal Service Comments at 5-9.

The Postal Service did not violate the prohibition in section 101(b) on closing the La Grande post office solely for operating at a deficit.

VI. CONCLUSION

The Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the La Grande post office is affirmed.

It is ordered:

The Postal Service's determination to close the La Grande, Washington post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

In this case, the Service has presented a more reasonable figure regarding the potential salary savings than in prior cases, because the current employee is a postmaster and the salary rate presented for savings is for a postmaster, not an Officer-In-Charge, as has been the inaccuracy in nearly all of the appeals before us since FY 2011.

However the Postal Service has not presented an accurate picture of the potential savings nor of the effect on employees because the record is not complete with regard to how much additional work and resulting salary will be required of the postmaster when that individual is reassigned. Therefore the Postal Service has not sufficiently considered the effect of such closing on employees as required by 39 U.S.C. § 404(d)(2)(A)(ii).

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

Further, the Commission has often expressed a concern—I have consistently expressed the concern—that the maintenance of adequate service requires providing an adequate number of post boxes in the receiving facility. In this case, only 41% of the

number of boxes required by current La Grande customers will be available at the receiving facility in Eatonville. Thus, the record does not show that the Postal Service has sufficiently considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011 have the respite of a 5-month moratorium.

The citizens of La Grande, Washington and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately comply with 39 U.S.C. § 404(d).

The Postal Service comments indicate that delivery and retail services will be provided by rural route delivery to cluster box units (CBUs), Postal Service Comments at 8. However, the Administrative Record is unclear if CBUs will be installed for those post office box holders electing to receive rural route service under the administrative responsibility of the Eatonville post office. Administrative Record, Item 1 at 1, Item 15 at 2, Item 17 at 2, Item 21 at 1, Item 29 at 2, Item 33 at 2, 5, and 6, and Final Determination at 2 and 6. Given that the Postal Service indicates that the La Grande post office has 17 post office box holders and that the proposed administrative office, Eatonville post office, has 7 post office boxes available, Final Determination at 2, should all current post office box holders opt for a post office box, it appears that the Eatonville post office does not have enough available post office boxes to accommodate the La Grande post office box holders.

In addition, the Postal Service states that one of the reasons the La Grande post office was being studied for discontinuance was because the cost of the required modifications exceeds the value of the present building. Administrative Record, Item 1 at 1; Item 18 at 1; Item 21 at 1; Final Determination at 2. However, the Administrative Record does not include any justification that these modifications are warranted.

I find that the Postal Service's decision to discontinue operations at the La Grande post office is unsupported by evidence on the record, and thus should be remanded.

Nanci E. Langley